IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Civil Revision No. 52 of 2006

United Hotels (P) Ltd. through its
Authorised representative
Sri Ashok Kumar S/o Sri Jiya Lal at present
R/o Hakmans Hotel, Mussorrie
District Dehradun ... Revisionist

Vs

1. Nirmal Jeet Singh Hoon S/o Sri H.S. Hoon
   C/o Manager, Hakman's Grand Hotel
2. Sri Irtiza Husain S/o Late Sri Mustafa Hussain
   R/o 45 Cantonment Road
   Lucknow
3. Smt. Zahida Khatoon
   Widow of Late Haji Razzak Mohammed Saheb
   R/o 45 Cantonment Road, Lucknow
4. Sri Murtaza Hussain
   S/o of Late Sri Mustafa Hussain
   R/o 45 Cantonment Road, Lucknow ... Respondents

Sri Alok Singh learned Senior Advocate assisted by Sri Gopal Narayan, learned counsel for the respondents.

Hon'ble B.C. Kandpal, J.

This revision has been preferred by the revisionists against the order dated 14.09.2006 passed by District Judge, Dehradun in S.C.C. Suit No. 41 of 1974 Irtiza Hussain & others Vs Ram Prasad & others thereby rejecting the revisionist/defendant No. 2 application for issuance of summons the witnesses.

2. Heard Sri Alok Singh, learned Senior Advocate assisted by Sri Gopal Narayan, learned counsel for the revisionist and perused the record.

3. The revisionist/defendant moved the application before the court below with a prayer that the revisionist/defendant witness be directed to appear for cross-examination and the witnesses mentioned in para 10 of the application be also summoned.

4. This application was objected by the respondent/plaintiff as well as by the defendant No. 3. The court below after having assessed the entire material available on record rejected the application filed by the defendant/revisionist vide order dated 14.09.2006.

5. Feeling aggrieved by the aforesaid impugned order, the revisionist has preferred this revision before this Court.

6. The order passed by the court below reveals that the parties have closed their evidence long back and the case had attained the stage of final arguments. One point or the other, the case is not being disposed of finally. The court below repeatedly directed the defendant No. 1 and 2 to file the affidavit of the witnesses in evidence but they have not complied the order passed by the court. The court below was absolutely justified in not allowing the application, as it appears that the application was filed only to linger on the proceedings.

7. In view of the above, I do not find any illegality, impropriety or incorrectness in the impugned order passed by the court below. The revision lacks merit and is liable to be dismissed.

9. Accordingly, the revision is dismissed in-limine.

10. Consequently, the stay application No. 12035 of 2006 is also rejected.

(B.C. Kandpal, J.)

21.09.2006
ASWAL